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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,882	08/31/2001	Juergen Reinold	IA00006	2241

22863 7590 02/10/2004

MOTOROLA, INC.  
CORPORATE LAW DEPARTMENT - #56-238  
3102 NORTH 56TH STREET  
PHOENIX, AZ 85018

EXAMINER

DO, NHAT Q

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 02/10/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/943,882	REINOLD ET AL.
	Examiner Nhat Do	Art Unit 2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-5 and 7-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 and 7-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 10, and 12.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments and 1.132 Affidavit filed on 11/21/03 have been fully considered but they are not persuasive.
2. Applicants argue that an "active network" is a network in which the nodes can perform custom operations on the contents of the messages that pass through the nodes... (Remarks page 7, first paragraph). Consequently, the system of Staiger is not an active system and Staiger fails to disclose an active system network and one or more devices communicatively coupled to the active network (Remarks page 7, last paragraph).
3. In response to applicant's arguments that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "An active network is a network in which the nodes can perform custom operations on the contents of the messages that pass through the nodes...") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, nowhere in the specification provides a clear definition of the claimed "active network" or limits what an "active network" can perform. Although it may be true that an "active network" can be interpreted as a network that performs the functions as argued in the Remarks and stated in the Affidavit, Such an interpretation is not the only possible interpretation. As

such, the claims are given the broadest reasonable interpretation consistent with the specification for the purpose of examination.

In this instance, Staiger discloses a system in figure 3 for supporting multiple types of communication task comprising controlling, testing... (Col. 10, lines 34-42); therefore the network of figure 3 is an active network.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 1-4, 7-16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,292,718 to Staiger.

Regarding to claims 1, and 10, Staiger discloses an active system in figure 3 used in a vehicle (Col. 1, lines 4-7) comprising:

The control element 'CAP' is the second device;

The control element 'SysMon' is the first device that couples to the network through links (a) (first communication coupling), and (b) (second communication coupling).

Regarding to claims 2, 11, and 12, the control elements 'ComPro', 'MMI/A', and Wireless Systems are the active network elements; wherein the link (a) (first

communication coupling) couples to the 'ComPro' (first active network element) and the link (b) (second communication coupling) couples to the 'MMI/A' (second communication coupling).

Regarding to claims 3, 13, and 14, Staiger discloses the control elements comprise transceiver devices (device active network element) for exchanging data (Col. 11, lines 10-23).

Regarding to claims 4, and 7, the transceiver that communicates with the control element 'ComPro' through link (a) is considered the first device active network, and the transceiver that communicates with the control element 'MIN/A' through link (b) is considered the second device active network.

Regarding to claim 8, Staiger discloses the 'SynMon' monitors system vitality comprising temperature and humidity sensing (Col. 7, lines 1-11); therefore the temperature sensor and the humidity sensor are considered the first and second device elements.

Regarding to claim 9, Staiger discloses the system comprises a packet data network (Col. 12, lines 1-15).

Regarding to claim 15, and 16, from figure 3, Staiger discloses the transceivers of 'SynMon' (first and second device active network elements) couple to 'ComPro' (first active network element) and 'MMI/A' (second active network element).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Staiger.

Staiger fails to disclose the transceivers (first device active network and second device active network elements) are coupled by connection media.

However Staiger discloses each control element is enabled to observe 3-way internal/external communication links and automatically reorganize the internal path upon faulty behavior (Col. 13, lines 4-7). In the other words, the system in figure 3 can transmit data from the control element 'ComPro' to the control element 'MMI/A' through links (a), and (b) (or links (g), and (d)) if link (c) fails. Therefore a person of ordinary skill in the art would have been motivated to modify the control element 'SysMon' (and similarly other control elements) by coupling the transceivers using connection media so that the transceiver that couples to link (a) can forward the data to the transceiver that couples to link (b) (or vice versa) so that the system can select links (a), and (b) (or links (g), and (d)) when link (c) fails as suggested by Staiger.

Consequently, it would have been obvious to a person having ordinary skill in the art by the time the invention was made to couple the transceivers by connection media.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhat Do whose telephone number is (703) 305-5743. The examiner can normally be reached on 9:00 AM - 6:00 PM (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nhat Do  
Examiner  
Art Unit 2663

ND

February 4, 2004.

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600 2/6/04